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November 14, 2007

D. Pauline Rindone, Ph.D., Director
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MEMORANDUM

TO: Legislative Education Study Committee

FR: Kathleen Forrer *K.F.*

RE: STAFF REPORT: PUBLIC EDUCATION DEPARTMENT (PED) BUDGET REQUEST FOR FY 09

Current statute (see Attachment) requires state agencies to submit their budget requests to the State Budget Division of the Department of Finance and Administration (DFA) for the following fiscal year no later than September 1 of the current fiscal year. However, the requests submitted on September 1 do not necessarily reflect the Governor's budget recommendations that must be submitted to the Legislative Finance Committee (LFC) and to every legislator prior to the session in January.¹ Throughout the intervening months, DFA and agency staff work to refine the initial requests before DFA submits its recommendations for all state agencies to the Governor.

Every year, the State Budget Division issues written directives that state agencies must follow in preparing their budget requests for the succeeding fiscal year. The *Appropriation Request Instructions: Fiscal Year 2009*, directs agencies to keep their FY 09 General Fund budget requests flat with the following exceptions:

- the agency is proposing to expand an existing program or adopt a new program that is tied "directly and convincingly to Governor Richardson's core agenda";
- the agency intends to continue a recurring program previously funded from nonrecurring revenue sources;
- the agency is experiencing significant increases in General Services Department group health or risk insurance costs or the Department of Information Technology rates for information systems, radio communications, or telecommunication costs;

¹ Statute requires that the Governor's recommendations be submitted "not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years."

- the agency will be annualizing the effect of new or expanded programs approved by the Governor and Legislature for FY 08;
- the agency is funded through a funding formula that is predicting an increase in cost; or
- the agency provides Medicaid or correctional services and is forecasting significant caseload and/or population increases.

Public Education Department Budget Request for FY 09:

Table 1 includes the Public Education Department's (PED's) actual revenue, expenditures, and full-time equivalent staff positions for FY 06 and FY 07; the department's appropriated revenue, expenditures, and full-time equivalent staff positions for FY 08; and the department's approved FY 08 operating budget. The table also includes PED's base and expansion budget requests for FY 09 as submitted to DFA on September 1 and revised on November 8, 2007.

TABLE 1

	FY 06	FY 07	FY 08	FY 08	FY 09	FY 09	FY 09
	Actual	Actual	Appropriation	Operating Budget	Base Request ¹	Expansion Request	Total Request
Revenue							
General Fund	\$11,761.7	\$12,046.8	\$14,415.7	\$14,956.3	\$17,916.9	\$2,634.4	\$20,551.3
Other Transfers ²	\$2,773.1						
Other State Funds ³	\$1,014.8	\$712.6	\$1,083.4	\$1,103.4	\$929.2	\$177.2	\$1,106.4
Federal Funds	\$16,942.8	\$15,317.6	\$20,130.1	\$20,362.5	\$29,516.0	\$14.3	\$29,530.3
Fund Balance ⁴					\$178.4		\$178.4
DFA Adjustments							
GF Compensation Pkg.			\$540.6				
Federal Compensation			\$232.4				
TOTAL REVENUE	\$32,492.4	\$28,077.0	\$36,402.2	\$36,422.2	\$48,540.5	\$2,825.9	\$51,366.4
Uses							
Personal Services & Employee Benefits	\$16,612.0	\$17,835.9	\$20,863.0	\$20,883.0	\$23,365.6	\$1,263.7	\$24,629.3
Contractual Services	\$12,088.1	\$8,119.0	\$10,902.8	\$10,902.8	\$20,129.6	\$1,450.0	\$21,579.6
Other	\$3,290.6	\$2,708.5	\$4,636.4	\$4,636.4	\$5,045.3	\$112.2	\$5,157.5
Other Financing Uses	\$116.9						\$0.0
TOTAL USES/EXPENDITURES	\$32,107.6	\$28,663.4	\$36,402.2	\$36,422.2	\$48,540.5	\$2,825.9	\$51,366.4
FTE Positions							
Permanent	197.2	205.2	209.2	209.2	209.2	19.0	228.2
Term	98.0	99.0	102.0	107.0	107.0	(5.0)	102.0
Temporary	2.6	5.6	4.6	4.6	4.6	0.0	4.6
TOTAL FTE	297.8	309.8	315.8	320.8	320.8	14.0	334.8

¹ The General Fund revenue in the FY 09 base budget exceeds that in the FY 08 approved operating budget because PED did not take into account any vacancy savings and because of the following additions: \$934,600 to cover increases in General Services Department (GSD) fee assessments; \$115,000 to cover additional salary costs incurred as the result of staff position reviews; \$150,000 for increased travel; \$90,000 for staff technology needs; \$90,000 for "unfunded agency needs"; and \$50,000 for cell phones.

² Temporary Assistance for Needy Families (TANF)

^{3,4} Educator certification license fees

In FY 07, PED's expenditures exceeded its total revenues by an estimated \$586,400 (unaudited).² In documentation provided by PED on November 9, PED indicates that the actual difference may be less than the \$586,400 shown in the table "due to receivables that are not reflected in the unaudited numbers." (Receivables are funds owed to the agency.) PED indicates

² State agency fiscal audit reports for FY 07 are due to the State Auditor no later than December 15, 2007.

that it will try to provide an estimate of the amount of money due to the department prior to the Legislative Education Study Committee (LESC) meeting. In addition, the department continues to owe \$62,000 to the General Services Department (GSD) for outstanding invoices from prior fiscal years. According to PED, the agency “undertook significant measures to make payment to GSD from the FY 2007 budget” but has submitted a deficiency request to DFA to cover the remaining costs (see “Deficiency and Supplemental Appropriation Requests” below).

The *General Appropriation Act* includes appropriations for state agency operations and appropriations for employee compensation in separate sections. When an agency’s operating budget is approved, those appropriations are combined. Thus, the \$14.9 million in General Fund revenue in PED’s FY 08 operating budget consists of the \$14.4 million appropriated in Section 4 of the act and the \$540,600 included as part of the compensation appropriation for all state agencies in Section 8.

In accordance with the exceptions allowed by DFA, PED’s General Fund base request for FY 09 exceeds its FY 08 approved operating budget by approximately \$2.96 million. According to PED, in determining the base amount, PED assumed no staff vacancies. Therefore, the \$17.9 million in requested General Fund revenue includes no vacancy savings.³ In addition, the base request includes \$934,600 to cover increases in GSD fee assessments; \$115,000 to cover additional salary costs incurred as the result of staff position reviews; \$150,000 for increased travel; \$90,000 for staff technology needs; \$90,000 for “unfunded agency needs”; and \$50,000 for cell phones. The base request also includes approximately \$9.2 million in additional federal revenues. Overall, PED’s FY 09 base request includes a total increase of \$12.1 million in revenue from all funding sources over the department’s FY 08 budgeted revenues.

PED’s expansion request for FY 09 includes an additional \$2.6 million in General Fund revenue, an additional \$14,300 in federal revenue, and an additional \$177,200 in other state funds (educator certification license fees). PED proposes to use the increased revenues to cover the cost of adding an additional 12 full-time equivalent permanent positions, two full-time equivalent term positions, and reclassifying seven term positions as permanent. Table 2 includes a list of all positions in PED’s expansion request, the proposed funding sources for each position, and the priority that PED has assigned to each position.

Of the 12 new permanent positions, PED proposes to pay for three positions—a financial coordinator, an education administrator, and an administrative support position—from revenue derived from state-chartered charter schools. Current statute states that PED’s Charter Schools Division “may withhold and use two percent of the school-generated program cost for its administrative support of a charter school.” Based on the assumption that all applicants are authorized, PED estimates available revenue at approximately \$204,000.

PED is requesting that the four positions dedicated to the implementation and maintenance of the Student Teacher Accountability Reporting System (STARS) be reclassified from term to permanent. In the past, these positions have been funded through special data processing appropriations. PED is also requesting that the \$1.4 million in contractual services for STARS and for the Operating Budget Management System (OBMS) be moved into the agency’s operating budget.

³ Prior to submitting its budget request recommendations to the Governor, DFA generally assesses a vacancy savings against each state agency, resulting in a lower base request.

The other three positions that PED is requesting be reclassified from term to permanent are in the Coordinated School and Family Support Bureau. They are currently being funded with federal Title IV (*21st Century Schools*) and Title V (*Innovative Programs*) grants. According to PED, based on the President's budget request for federal fiscal year 2008, Title IV funds to New Mexico will decrease significantly and Title V will not be funded.

The remaining positions being requested by PED are: a paralegal (term) to assist with educator ethics issues; an operations manager (term) to oversee the operations of the Educator Ethics Bureau and to establish a tracking and management system; three educator administrators (permanent) for the Assessment and Evaluation Bureau; a research analyst (permanent) and an administrative support position (permanent) for the Academic Growth and Analysis Bureau; two education administrators (permanent) to support the "Governor's High School Redesign" initiative; an executive secretary (permanent) for the Program Support and Student Transportation Division; and an executive secretary (permanent) for the Indian Education Division.

In its November 6, 2007 vacancy report, PED indicates that the department has an overall vacancy rate of 17.4 percent. Of the 56 vacant positions, 20 are state-funded, 22 are federally funded, and 14 are funded from both state and federal revenue sources. (NOTE: Although the total number of full-time equivalent positions in PED's base request for FY 09 is 320.8, the department has used 322.0 as the denominator for calculating the current vacancy rate.)

TABLE 2

PED Priority	PURPOSE/PED Division or Bureau	Position	FTE		Funding			
			Term	Permanent	General Fund	Federal	Other	Total
1	CHARTER SCHOOLS/EDUCATOR ETHICS							
2	School Budget & Finance Analysis	Financial Coordinator O (charter schools)/Albuquerque		1.00	2.0% from charter prog. cost			\$0.0
3	Charter Schools	Education Administrator A (charter schools)/Albuquerque		1.00	2.0% from charter prog. cost			\$0.0
4	Public Information Office/PEC	Office and Administrative Support A (charter authorizing function)		1.00	2.0% from charter prog. cost			\$0.0
5	Educator Ethics	Administrative Operations Manager II (educator ethics)	1.00				\$88.5	\$88.5
5	Office of General Counsel	Paralegal & Legal assistant A (educator ethics)	1.00		\$11.5	\$14.3	\$26.1	\$51.9
		Other Expenditures			\$4.6		\$62.6	\$67.2
		Subtotal	2.00	3.00	\$16.1	\$14.3	\$177.2	\$207.6
	ASSESSMENT AND EVALUATION/STARS							
6	Information Technology Division (STARS)	IT Project Manager (Term to Perm)	(1.00)	1.00	\$106.2			\$106.2
6	Information Technology Division (STARS)	IT Applications Developer (Term to Perm)	(1.00)	1.00	\$99.7			\$99.7
6	Information Technology Division (STARS)	IT Database Administrator (Term to Perm)	(1.00)	1.00	\$87.5			\$87.5
6	Information Technology Division (STARS)	Business Operations Specialist (Term to Perm)	(1.00)	1.00	\$56.8			\$56.8
7	Academic Growth & Analysis	Research Analyst		1.00	\$63.3			\$63.3
8	Assessment & Evaluation	Educator Administrator A		1.00	\$67.5			\$67.5
8	Assessment & Evaluation	Educator Administrator A		1.00	\$67.5			\$67.5
8	Assessment & Evaluation	Educator Administrator A		1.00	\$67.5			\$67.5
9	Academic Growth & Analysis	Office and Administrative Support A		1.00	\$39.4			\$39.4
		Other Expenditures			\$1,459.0			\$1,459.0
		Subtotal	(4.00)	9.00	\$2,114.3	\$0.0	\$0.0	\$2,114.3
10	HIGH SCHOOL REDESIGN							
10	Instructional Support	Educator Administrator A		1.00	\$67.5			\$67.5
10	Instructional Support	Educator Administrator A		1.00	\$67.5			\$67.5
		Other Expenditures			\$20.0			\$20.0
		Subtotal	0.00	2.00	\$154.9	\$0.0	\$0.0	\$154.9
	SCHOOL AND FAMILY SUPPORT							
11	Coordinated School & Family Support	General Manager (Term to Perm)	(1.00)	1.00	\$99.8			\$99.8
12	Coordinated School & Family Support	Administrative Operations Manager (Term to Perm)	(1.00)	1.00	\$85.7			\$85.7
13	Coordinated School & Family Support	Social and Community Coordinator (Term to Perm)	(1.00)	1.00	\$61.0			\$61.0
		Subtotal	(3.00)	3.00	\$246.5	\$0.0	\$0.0	\$246.5
	OTHER							
14	Program Support & Student Transportation Div.	Executive Secretary		1.00	\$43.3			\$43.3
15	Indian Education Division	Executive Secretary		1.00	\$43.3			\$43.3
		Other Expenditures			\$16.0			\$16.0
		Subtotal	0.00	2.00	\$102.6	\$0.0	\$0.0	\$102.6
		GRAND TOTAL	(5.00)	19.00	\$2,634.4	\$14.3	\$177.2	\$2,825.9

NOTE: Other expenditures include space rental, office furniture and equipment, supplies and travel.

Deficiency and Supplemental Appropriation Requests:

A deficiency request is a request for funds to address budget shortfalls in FY 07 or prior fiscal years. DFA notes that such requests should reconcile to agency audit reports. PED is requesting a deficiency appropriation of \$62,000 to cover outstanding invoices from prior years for charges assessed by GSD: \$44,000 for GSD Information Services Division and \$18,000 for GSD Motor Pool. According to PED, some of these charges date back to FY 04.

A supplemental request is a request for funds to address projected budget shortfalls for FY 08 “that cannot be addressed with existing or additional budget adjustment authority.” PED is requesting two supplemental appropriations totaling approximately \$3.2 million:

- \$1,633.1 to cover increased fuel costs for school-owned transportation operations; and
- \$1,527.0 to contract with American Institutes for Research (AIR) to develop and maintain the New Mexico Alternate Performance Assessment (NMAPA) and to provide professional development regarding NMAPA. PED notes that this will be a recurring expenditure that will be addressed in the agency’s Public School Support request that will be presented to the LESC in December.

Issue: The 2007 Legislature appropriated \$500,000 to PED for expenditure in FY 07 and FY 08 “for special education alternative assessment and test development.”

Policy Options:

According to PED, the department’s Office of the Inspector General (OIG) has resumed conducting audits of school district and charter school membership and Training and Experience (T&E) data. PED also notes that a shortage of personnel and travel funds have limited both the number and location of audits that OIG is able to conduct. Although OIG had planned to conduct audits in 19 districts during school year 2007-2008, to date OIG has audited one—Albuquerque Public Schools—and plans to limit additional audits to districts in close proximity to Santa Fe. Because more than \$2.0 billion in General Fund revenue is appropriated annually to public schools through the State Equalization Guarantee, it is important that the data used to determine the distribution of those funds be accurate.

Although PED has not included OIG in its expansion request, the committee may wish to consider recommending that the Legislature appropriate additional funding and two full-time equivalent staff members to enable OIG to conduct additional membership and T&E audits in FY 09 and subsequent fiscal years. The estimated total cost for two auditors, including salaries, benefits, office expenses, and travel expenses, is approximately \$150,000.⁴

Presenters:

Dr. Veronica C. García, Secretary of Public Education, and Mr. Don Moya, Deputy Secretary for Finance and Operations, PED, will review PED’s FY 09 budget request.

⁴ Salaries are estimated at midpoint; benefits are estimated at 30 percent. It is assumed that staff will travel 100 days out of the year, using a mid-size van from the GSD motor pool.

ARTICLE 3

State Budgets

6-3-19. Agencies to complete budget forms.

Each state agency shall fill out the budget forms provided for in Section 6-3-18 NMSA 1978 in the manner prescribed by the state budget division. Each state agency, in completing the budget forms, shall include information for all divisions, subdivisions and offices of the agency. Related agencies, upon approval of the state budget division, may join in submitting one set of budget forms. Completed budget forms shall be returned to the state budget division not later than September 1 in each year.

History: 1953 Comp., § 11-4-7.5, enacted by Laws 1955, ch. 114, § 10; 1963, ch. 147, § 3; 1977, ch. 247, § 130; 1999, ch. 5, § 11; 1999, ch. 15, § 11.

1999 amendments. — Identical amendments to this section were enacted by Laws 1999, ch. 5, § 11, effective June 18, 1999, approved March 1, 1999, and Laws 1999, ch. 15,

§ 11, also effective June 18, 1999, approved March 10, 1999, which updated a statutory reference in the first sentence. The section is set out as enacted by Laws 1999, ch. 15, § 11. See 12-1-8 NMSA 1978.

6-3-20. Review of budget forms.

The state budget division shall review the completed budget forms of all state agencies and shall include recommendations concerning the requested appropriation in the tentative budget. Prior to submission of the tentative budget to the governor, any state agency may be given an informal hearing by the state budget division concerning recommendation of the division pertaining to the requested appropriation of such agency, and shall be given such a hearing if the state budget division proposes to decrease the requested appropriation.

History: 1953 Comp., § 11-4-7.6, enacted by Laws 1955, ch. 114, § 11; 1977, ch. 247, § 131.

6-3-21. Preparation of the budget.

A. The governor shall prepare the budget and submit it to the legislative finance committee and each member of the legislature not later than January 5 in even-numbered years and not later than January 10 in odd-numbered years. In the preparation of the budget the governor may:

- (1) change the tentative budget by adding new items, increasing or decreasing or eliminating items;
- (2) obtain advice and assistance from any state agency; and
- (3) hold hearings on the budget.

B. Any budget hearings conducted by the governor shall be open to the public. The governor may require the attendance of any head of an agency, whether elective or appointive. At the hearings, any officer or agency may protest budget items.

History: 1953 Comp., § 11-4-7.7, enacted by Laws 1955, ch. 114, § 12; 1999, ch. 5, § 12; 1999, ch. 15, § 12; 2004, ch. 39, § 1.

The 2004 amendments, effective May 19, 2004, amended Subsection A to change January 1 of each year to "January 5 in

even-numbered years and not later than January 10 in odd-numbered years".